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Appeals court denies access to sabotage data

By Michael Hedges
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Estimates on the number of terrorists needed to sabotage a nuclear power plant should remain classified information in the interest of national security, the U.S. Court of Appeals ruled yesterday in reversing a lower court.

The three-judge panel said that "release of [the classified information] would reduce the uncertainty facing a terrorist bent on sabotage," and disclosure "reasonably could be expected to cause damage to the national security."

The decision canceled a May 1984 opinion by U.S. District Judge William B. Bryant, who ruled in favor of John Abbotts, an anti-nuclear researcher with the Public Interest Research Group, in a freedom-of-information suit against the Nuclear Regulatory Commission.

The Public Interest Research Group was founded in the mid-1970s by consumer advocate Ralph Nader to research energy issues and oppose nuclear energy programs. It is financed by private donations. Mr. Nader is no longer directly involved with the agency, officials said yesterday.

Mr. Abbotts sought the release of "two words in one sentence," according to a government attorney. The two words gave the NRC's classified estimate of the force needed to mount a successful attack against a nuclear facility.

Judge Bryant wrote in his opinion: "The withheld figures are no more sensitive, and in some cases less sensitive, than those which the defendant [NRC] has already seen fit to release on more than one occasion."

"That decision was simply wrong," William Briggs, formerly an assistant U.S. attorney who worked on the case and now a counsel with the NRC, said yesterday. "Other estimates have been released, but they were not the number the NRC uses in setting its security measures."

"Our theory was if a group is bent on attacking a nuclear facility, every bit of information they get will be of benefit to them," Mr. Briggs said. "It puts them at a severe disadvantage not knowing the number defended against."

But Eric Glitzenstein, an attorney representing Mr. Abbotts, said the NRC security estimates may be inadequate and contended the public was at a disadvantage by not knowing those estimates.

He said "lots of circumstantial evidence" indicated that the NRC has determined plants should be protected against three to five attackers. He said other studies, including one done by an NRC consultant, have concluded plants should be protected against as many as 15 terrorists.

"If that low figure had been brought to the public's attention, it

might have shown that not enough is being done," he said. "Knowing that has become even more important as terrorist attacks become more of a possibility."

Mr. Abbott sought access to a classified page in a 1977 NRC study on security at plants where nuclear wastes were to be recycled as fuel for nuclear power plants.

The NRC said that plutonium, which can be used in the manufacture of nuclear weapons, would be created by the recycling process. As a result, security plans were written giving a "baseline threat level," describing the number of combatants necessary to successfully attack a recycling plant and steal the plutonium.

The baseline threat level sought to predict the number of terrorists who could gather for an attack without detection, yet still have sufficient force to sabotage a nuclear facility.

Mr. Briggs said once that number was set, security measures were structured around meeting an attack of that magnitude.

No recycling plants producing plutonium have been built in the United States, Mr. Briggs said. But

he said the classified numbers were used in security planning at power plants where uranium, which cannot be converted into nuclear weapons, is produced.

At those plants, he said, sabotage to create a nuclear accident, not seizure of the power core, is the concern.

Mr. Glitzenstein said it was "highly unlikely" the case would be appealed to the Supreme Court.